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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,085	02/17/2004	Pamela Dixon	6481P001	6331
8791 7590 07/31/2007 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
			EXAMINER LEWIS, KIANDRA CHARLE	
			ART UNIT 3772	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/781,085	DIXON, PAMELA	
	Examiner	Art Unit	
	Kiandra C. Lewis	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14, 16-22, 24-27, 31, 33-35 is/are rejected.
- 7) ☒ Claim(s) 11-13, 23, 28-30 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the

- a. hook and loop (claims 6, 12, 23 and 29)
- b. buckle (claims 7 and 24)
- c. lace and plurality of holes (claim 8)
- d. zipper (claim 12)

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 307 pg 6; 305 pg 8; 611, 612, 613, 614 pg 11. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The use of the trademark VELCRO® has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology (hook and loop).

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

4. Claims 6, 12, 23 and 29 are objected to because of the following informalities:

Trademarks cannot be in the claims. VELCRO® is recited in multiple claims and should be replaced with the generic term hook and loop. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 6, 9, 10, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Oram et al. US 4,294,239.

7. As to claim 1, Oram et al. disclose an apparatus (10) comprising a pad portion (12) coupled to a first belt portion on a first end (26) and a second belt portion on a second end (27); and a removable coupling means (30, 31) for coupling the first belt portion with the second belt portion, wherein the pad portion is adapted to be placed over one of a person's abdomen and thoracic area (col. 3, lines 21-25), and the removable coupling means adjusts pressure of the pad portion on one of a person's abdomen and thoracic area.

8. As to claim 6, Oram et al. disclose the coupling means to be hook and loop (col. 3, lines 8-19)

9. As to claims 9 and 10, Oram et al. disclose that the pad portion be placed against the abdomen it is inherent that it can parallel or perpendicular to the incision, considering the incision may vary.

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10. As to claim 16, Oram et al. disclose that the pad portion can be placed over an incision on one of a person's abdomen and thoracic area (col. 1, lines 56-61).

11. As to claim 17, that the pad portion is adapted to assist in flattening a person's abdominal area after giving birth is an intended use limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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14. Claims 2, 3, 14, 15, 34, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oram et al. '239 in view of Heinze, III US 5,690,609.

15. As to claims 2 and 14, Oram et al, substantially discloses the limitations of the base claim, see rejection to claim 1 above, but does not expressly state that the pad portion is a pillow. However Heinze, III teaches an abdominal and back support in which the pad portion comprises a cushion. It would have been obvious to one having ordinary skill in the art at the time of the invention to use a cushion as disclosed by Heinze, III in the invention on of Oram et al. not only because they are in the same field of endeavor of providing abdominal and lumbar support but because the cushion would provide increased comfort along with a snug fit (col. 6, lines 17-25).

16. As to claim 3, the above combination teaches a concave shape ('239. fig. 2).

17. As to claim 15, Heinze, III teaches the device to have abdominal and back support.

18. As to claims 34 and 35, Oram et al. disclose an apparatus (10) comprising a pad portion (12) coupled to a first belt portion on a first end (26) and a second belt portion on a second end (27); and a removable coupling (30, 31) for the first belt portion with the second belt portion, wherein the pad portion is adapted to be placed over one of a person's abdomen and thoracic area (col. 3, lines 21-25), and the removable coupling means adjusts pressure of the pad portion on one of a persons abdomen and thoracic area. However Heinze, III teaches an abdominal and back support in which the pad portion comprises a cushion. It would have been obvious to one having ordinary skill in

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the art at the time of the invention to use a cushion as disclosed by Heinze, III in the invention on of Oram et al. not only because they are in the same field of endeavor of providing abdominal and lumbar support but because the cushion would provide increased comfort along with a snug fit (col. 6, lines 17-25). The combination does not expressly state that there are more than 2 removable coupling means however it would have been obvious to one having ordinary skill in the art at the time of the invention to have more coupling means for the purpose of adjusting the device and making providing the best fit for the user.

19. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oram et al. '239 in view of Daneshvar US 5,514,155.

20. As to claim 4, Oram et al. substantially disclose the limitations of the base claim, see rejection to claim 1 above, but does not expressly state that the pad portion is filled with gel, the pad portion having a top portion and a bottom portion. Daneshvar teaches a belt apparatus for applying pressure to wound in the groin area of a patient. They are from the same field of endeavor of treating a wound with applied cushion or pressure support. Daneshvar teaches that a portion can be gel-filled (col. 13, lines 35-37). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Oram to have a gel-filled pad portion as taught by Daneshvar for the purpose of better conforming to the area on which is it used on (col. 26, line 62- col. 27, line 3).

21. As to claim 5, the above combination teaches a concave shape ('239, fig. 2).

22. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oram et al '239 in view of Clemens et al. US 4,717,382.

23. As to claim 7, Oram et al. substantially discloses the limitations of the base claim, see rejection to claim 1 above, but do not expressly state that the coupling means is a buckle. Clemens et al. teach a belt device to be placed over a wound on the thorax area of a patient. Clemens et al. teach that the fastening means can be a buckle or VELCRO® for the purpose of adjustably connecting the straps (col. 4, lines 9-16). It would have been obvious to one having ordinary skill in the art at the time of the invention to use a buckle fastening means as taught by Clemens et al. in the invention of Oram et al. for the purpose of providing the user with an adjustable support device.

24. As to claim 8, Oram et al. substantially disclose the limitations of the base claim, see rejection to claim 1 above, but do not expressly state that the coupling means is a lace to be removably coupled through a plurality of holes. The applicant has not disclosed that the lace and holes provides an advantage, solves a stated problem, or is used for a particular purpose so it would have been obvious to one having an ordinary skill in the art to modify Oram et al. and Clemens to have the fastening means be any of VELCRO®, buckle, lace, or zipper for the purpose of attaching the device to the patient.

25. Claims 18, 26, 27 and 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oram et al. '239.

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26. As to claim 18, Oram et al. disclose an apparatus (10) comprising a pad portion (12) coupled to a first belt portion on a first end (26) and a second belt portion on a second end (27); and a removable coupling (30, 31) for the first belt portion with the second belt portion, wherein the pad portion is adapted to be placed over one of a person's abdomen and thoracic area (col. 3, lines 21-25), and the removable coupling means adjusts pressure of the pad portion on one of a person's abdomen and thoracic area. Oram et al. do not expressly state that there are more than 2 removable coupling means however it would have been obvious to one having ordinary skill in the art at the time of the invention to have more coupling means for the purpose of adjusting the device and making providing the best fit for the user.

27. As to claims 26 and 27, Oram et al. disclose that the pad portion be placed against the abdomen or thoracic area (col. 1, lines 56-61) it is inherent that it can parallel or perpendicular to the incision, considering the incision may vary.

28. As to claim 33, that the pad portion is adapted to assist in flattening a person's abdominal area after giving birth is an intended use limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

29. Claims 19, 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oram et al. '239 in view of Heinze, III US 5,690,609.

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30. As to claims 19, Oram et al, substantially discloses the limitations of the base claim, see rejection to claim 18 above, but does not expressly state that the pad portion is a pillow. However Heinze, III teaches an abdominal and back support in which the pad portion comprises a cushion. It would have been obvious to one having ordinary skill in the art at the time of the invention to use a cushion as disclosed by Heinze, III in the invention on of Oram et al. not only because they are in the same field of endeavor of providing abdominal and lumbar support but because the cushion would provide increased comfort along with a snug fit (col. 6, lines 17-25).

31. As to claim 20, the above combination teaches a concave shape ('239, fig. 2).

32. As to claim 31, Heinze, III teaches the device to have abdominal and back support

33. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oram et al. '239 in view of Daneshvar US 5,514,155.

34. As to claim 21 Oram et al. substantially discloses the limitations of the base claim, see rejection to claim 18 above, but does not expressly state that the pad portion is filled with gel, the pad portion having a top portion and a bottom portion. Daneshvar teaches a belt apparatus for applying pressure to wound in the groin area of a patient. They are from the same field of endeavor of treating a wound with applied cushion or pressure support. Daneshvar teaches that a portion can be gel-filled (col. 13, lines 35-37). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Oram to have a gel-filled pad portion as taught by

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Daneshvar for the purpose of better conforming to the area on which is it used on (col. 26, line 62- col. 27, line 3).

35. As to claim 22, the above combination teaches a concave shape (239, fig. 2).

36. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oram et al '239 in view of Clemens et al. US 4,717,382.

37. As to claim 24, Oram et al. substantially discloses the limitations of the base claim, see rejection to claim 1 above, but do not expressly state that the coupling means is a buckle. Clemens et al. teach a belt device to be placed over a wound on the thorax area of a patient. Clemens et al. teach that the fastening means can be a buckle or VELCRO® for the purpose of adjustably connecting the straps (col. 4, lines 9-16). It would have been obvious to one having ordinary skill in the art at the time of the invention to use a buckle fastening means as taught by Clemens et al. in the invention of Oram et al. for the purpose of providing the user with an adjustable support device.

38. As to claim 25, Oram et al. substantially disclose the limitations of the base claim, see rejection to claim 1 above, but do not expressly state that the coupling means is a lace to be removably coupled through a plurality of holes. The applicant has not disclosed that the lace and holes provides an advantage, solves a stated problem, or is used for a particular purpose so it would have been obvious to one having an ordinary skill in the art to modify Oram et al. and Clemens to have the fastening means be any of VELCRO®, buckle, lace, or zipper for the purpose of attaching the device to the patient.

Claim Objections

39. Claims 11-13, 23, 28, 29, 30 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

40. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6,585,673; US 5,179,942.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiandra C. Lewis whose telephone number is 571-272-7517. The examiner can normally be reached on Mon-Thurs 9AM-6PM and alternating Fridays 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCL


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